



## State of Missouri

### DEPARTMENT OF INSURANCE, FINANCIAL INSTITUTIONS & PROFESSIONAL REGISTRATION

IN THE MATTER OF:

Tandy S. DelCastillo,

Applicant.

Serve at:

421 Lee Drive  
Liberty, Missouri 64068

Case No. 10-0401412C

#### **REFUSAL TO ISSUE INSURANCE PRODUCER LICENSE**

On April 7, 2010, Tamara W. Kopp, Senior Enforcement Counsel and counsel to the Consumer Affairs Division, submitted a Petition to the Director alleging cause for refusing to issue an insurance producer license to Tandy S. DelCastillo. After reviewing the Petition, the Investigative Report, and the entirety of the file, the Director issues the following findings of fact, conclusions of law, and summary order:

#### **FACTUAL BACKGROUND**

1. Tandy S. DelCastillo ("DelCastillo") is an individual residing in Missouri, whose mailing address of record is 421 Lee Drive, Liberty, Missouri 64068.
2. On September 3, 2009, the Department of Insurance, Financial Institutions and Professional Registration ("Department") received a Uniform Application for Individual Insurance Producer License ("Application 1") from DelCastillo.
3. In the section of the Application 1 headed "Background Questions," Background Question # 1 asks "Have you ever been convicted of, or are you currently charged with, committing a crime, whether or not adjudication was withheld?"
4. DelCastillo answered "Yes" to Background Question # 1.
5. In the section of the Application 1 headed "Background Questions," Background Question # 4 asks "Have you been notified by any jurisdiction to which you are applying of any delinquent tax obligation that is not the subject of a repayment agreement."

6. DelCastillo answered "Yes" to Background Question # 4 and disclosed that she owes 2008 taxes to the State of Missouri.
7. DelCastillo failed to provide any documents regarding the affirmative answers to Background Question # 1 and # 4 with Application 1.
8. On September 22, 2009, the Department received a second Uniform Application for Individual Producer License ("Application 2") from DelCastillo. On Application 2 DelCastillo stated that her intention was to answer "no" to Background Question # 1 on Application 1.
9. On September 30, 2009, the Department received a letter from DelCastillo dated September 28, 2009, that included Application 2 and stated "please note that the answer to [Background Question # 1] has been changed to reflect the correct answer." Application 2 includes the handwritten note next to Background Question # 1, "This was marked yes by mistake. The answer is no." The handwritten note was signed by DelCastillo and dated September 28, 2009.
10. On October 1, 2009, the Department received a letter from DelCastillo dated September 29, 2009, that stated that her affirmative answer to Background Question # 1 on Application 1 was correct, contrary to what was stated in DelCastillo's September 28, 2009 letter. Further, DelCastillo stated, "Any error, on my part, was due to misunderstanding and was never intended to misrepresent facts."
11. The Department received a letter from DelCastillo dated November 2, 2009. The letter included court documents regarding her criminal history.
12. In June 2008, DelCastillo was convicted of Driving While Intoxicated in Belton Municipal Court. The court suspended the execution of a two-year sentence and placed DelCastillo on probation for two years. *Belton Municipal Citation Nos. 070755872-01 and 070755873-01*. Based on the records provided, it is unclear whether or not DelCastillo completed probation.
13. In September 2008, DelCastillo pleaded guilty to and was found guilty of passing a bad check by the Clay County Circuit Court. The court suspended the imposition of DelCastillo's sentence and placed her on probation for six months. *State v. Tandy Suzanne DelCastillo, Case No. 08CY-CR01308*. DelCastillo was discharged from probation in April 2009.
14. The Department's Consumer Affairs Division sent a letter dated November 9, 2009, via U.S. Mail to DelCastillo at her address of record, requesting an explanation regarding her delinquent tax obligation with the state of Missouri. The November 9, 2009 letter to DelCastillo was not returned in the mail. DelCastillo failed to respond to the November 9, 2009 letter.

15. The Department's Consumer Affairs Division sent a letter dated December 2, 2009, via U.S. Mail to DelCastillo at her address of record, again requesting information regarding her delinquent tax obligation with the state of Missouri. The December 2, 2009 letter to DelCastillo was not returned in the mail. DelCastillo failed to respond to the December 2, 2009 letter.
16. On December 15, 2009, a Department Consumer Affairs Division investigator contacted DelCastillo by telephone and advised her that two letters had been sent to her requesting information regarding her delinquent tax obligation. DelCastillo stated to the investigator that she did not know how to get the information requested. The investigator instructed DelCastillo to contact the Missouri Department of Revenue for more information.
17. The Department Consumer Affairs Division sent a letter dated January 15, 2010, via U.S. Mail to DelCastillo at her address of record, again requesting information regarding her delinquent tax obligation with the state of Missouri. The January 15, 2010 letter also informed DelCastillo of the process for withdrawing a license application. The January 14, 2010 letter to DelCastillo was not returned in the mail. DelCastillo failed to respond to the January 15, 2010 letter.
18. To date, DelCastillo has not withdrawn her license Applications.

### **CONCLUSIONS OF LAW**

19. Section 375.141.1, RSMo (Supp. 2009), provides, in part:

The director may suspend, revoke, refuse to issue or refuse to renew an insurance producer license for any one or more of the following causes:

- (1) Intentionally providing materially incorrect, misleading, incomplete or untrue information in the license application;
- (2) Violating any insurance laws, or violating any regulation, subpoena or order of the director or of another insurance commissioner in any other state;

20. Section 374.210, RSMo (Supp. 2009) provides, in part:

The director may also suspend, revoke or refuse any license or certificate of authority issued by the director to any person who does not appear or refuses to testify, file a statement, produce records, or does not obey a subpoena.

21. 20 CSR 100-4.100 Required Response to Inquiries by the Consumer Affairs Division, provides, in part:

(A) Upon receipt of any inquiry from the division, every person shall mail to the division an adequate response to the inquiry within twenty (20) days from the date the division mails the inquiry. An envelope's postmark shall determine the date of mailing. When the requested response is not produced by the person within twenty (20) days, this nonproduction shall be deemed a violation of this rule, unless the person can demonstrate that there is reasonable justification for that delay.

22. The principal purpose of § 375.141, RSMo, is not to punish licensees or applicants, but to protect the public. *Ballew v. Ainsworth*, 670 S.W.2d 94, 100 (Mo.App. E.D. 1984).
23. DelCastillo may be refused an insurance producer license pursuant to § 375.141.1(1), RSMo (Supp. 2009), because she intentionally refused to provide complete information in her license application. DelCastillo was given at least three written opportunities and one telephone opportunity to provide complete information in her license applications regarding her tax delinquency. A Department investigator explained to DelCastillo, both on the telephone and in writing, how DelCastillo could comply with the inquiries. DelCastillo still failed to provide a response to the inquiries. Such failure indicates that DelCastillo intentionally failed to provide the information necessary to fully evaluate her applications.
24. DelCastillo may be refused an insurance producer license pursuant to § 374.210, RSMo (Supp. 2009), for failing file a statement on three occasions with the Department's Consumer Affairs Division.
25. DelCastillo may be refused an insurance producer license pursuant to § 375.141.1(2), RSMo (Supp. 2009), for violating 20 CSR 100-4.100 by failing to respond to three inquiries from the Consumer Affairs Division.
26. Granting DelCastillo's insurance producer license would not be in the public interest.
27. This order is in the public interest.

### **ORDER**

**IT IS THEREFORE ORDERED** that the insurance producer license application of Tandy S. DelCastillo is hereby summarily **REFUSED**.

**SO ORDERED, SIGNED AND OFFICIAL SEAL AFFIXED THIS** 15<sup>TH</sup> **DAY**  
**OF APRIL, 2010.**



**JOHN M. HUFF**  
**DIRECTOR**

**NOTICE**

**TO: Applicant and any unnamed persons aggrieved by this Order:**

You may request a hearing in this matter. You may do so by filing a complaint with the Administrative Hearing Commission, P.O. Box 1557, Jefferson City, Missouri within 30 days after the mailing of this notice pursuant to § 621.120, RSMo. Under 1 CSR 15-3.290, unless you send your complaint by registered or certified mail, it will not be considered filed until the Administrative Hearing Commission receives it.

**CERTIFICATE OF SERVICE**

I hereby certify that on this 19<sup>th</sup> day of April, 2010, a duplicate original of the foregoing Order and Notice was served upon the Applicant in this matter by certified mail No. 70041350000314135126.

Tandy S. DelCastillo  
421 Lee Drive  
Liberty, Missouri 64068

